

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO: 5:08-CR-00271-BR

UNITED STATES OF AMERICA)
)
)
v.) ORDER
)
)
ALBERT EDGERTON)
)

This matter is before the court on defendant's *pro se* motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). (DE # 166.)

In 2009, defendant pled guilty to two counts of possession with intent to distribute more than five grams of cocaine base (crack) in violation of 21 U.S.C. § 841(a)(1) and one count of using and carrying a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A). At sentencing, the court found defendant responsible for 3,118.06 grams of cocaine, one pound of marijuana, and 150.55 grams of crack. (See 9/8/09 Tr., DE # 124, at 31-33; PSR ¶ 16.) These amounts totaled 3,635.1 kilograms of marijuana equivalence.¹ That amount of marijuana resulted in a base offense level of 34. Id. § 2D1.1(c)(3) (2008). However, with the applicable two-level reduction, id. § 2D1.1, comment. (n.10(D)), defendant's base offense level was 32, (see 9/8/09 Tr., DE # 124, at 32). His guideline imprisonment range was 151 to 188 months.² (Id. at 33.)

¹150.55 grams of crack x 20 kilograms = 3,011 kilograms of marijuana
3,118.06 grams of cocaine x 200 grams = 623,612 grams, or 623.612 kilograms, of marijuana
1 pound of marijuana = .4536 kilogram of marijuana
See U.S.S.G. § 2D1.1, comment. (n.10(E)) (2008).

²This range was for the two drug counts. (9/8/09 Tr., DE # 124, at 32-33.) Because the firearm count required a consecutive sentence, the guideline imprisonment "range" on that count was the statutory mandatory minimum term of imprisonment, 60 months. (See id.; PSR ¶ 85.)

Defendant contends that, by virtue of the recent retroactive amendments to the sentencing guidelines pertaining to crack offenses, his base offense level is now 28, resulting in a lower guideline imprisonment range of 110 to 137 months. (Mot., DE # 166, at 2.) Defendant's contention is misplaced. Applying the amended guidelines, the drug quantities for which defendant was responsible total 1,161.68 kilograms of marijuana equivalence.³ That amount of marijuana results in a base offense level of 32, see id. § 2D1.1(c)(4) (2013), which is exactly the same as what the court found at defendant's sentencing in 2009. Defendant's guideline imprisonment range remains 151 to 188 months. See id. § Ch. 5, pt. A. Thus, the revised sentencing guidelines do not have the effect of lowering defendant's guideline imprisonment range.

Defendant's motion is DENIED.

This 10 June 2014.



W. Earl Britt
Senior U.S. District Judge

³150.55 grams of crack x 3,571 grams = 537,614 grams, or 537.61 kilograms, of marijuana
3,118.06 grams of cocaine x 200 grams = 623,612 grams, or 623.612 kilograms, of marijuana
one pound of marijuana = .4536 kilogram of marijuana
See U.S.S.G. § 2D1.1, comment. (n.8(D)) (2013).